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C O N F I D E N T I A L BAGHDAD 003504

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E.O. 12958: DECL: 10/21/2017

TAGS: AMGT ASEC PREL APER IZ

SUBJECT: PSD INCIDENT UPDATE: EMBASSY APPROVES CONDOLENCE PAYMENTS, GOI INVESTIGATION REPORT RELEASED, RSO ACTIVITY

REF: A. BAGHDAD 03341

1B. BAGHDAD 03307

1C. BAGHDAD 03257

1D. BAGHDAD 03164

1E. BAGHDAD 03156

1F. BAGHDAD 03143

1G. BAGHDAD 03136

Classified By: Deputy Chief of Mission Patricia A. Butenis for reasons
1.4 (b) and (d)

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Summary

(C) 1. The Embassy obtained a copy of with the results of the Government of Iraq's (GOI) investigation report of the September 16 incident at Nisoor Square. The report portrays the incident as an unprovoked attack on unarmed civilians, references a number of other alleged incidents involving Blackwater, recommends payments of \$8 million and \$4 million for each death and injury respectively, and calls for the USG to replace Blackwater within six months of the incident. It is unclear to what extent the GOI is committed to these recommendations or how it intends to implement them. The Embassy has begun accepting claims from victims of the incident, with 15 claims submitted so far. Post has approved payments of \$10,000 for each death, \$5,000 for each injury, and \$2,500 for property damage. The Regional Security Office (RSO) is implementing changes to procedures and increasing linkages to the GOI for cooperation and information sharing on PSD issues. The Embassy is awaiting the Department's determination as to what information about past PSD incidents can be shared with the Joint Commission, and is developing a work plan to guide the meetings of the Joint Commission; this work plan will also form the basis of Post's proposed structure for the Joint Commission's report.

GOI Investigation

(C) 2. On October 11 the Ministry of Defense (MOD) gave the Embassy a copy of the final report of its investigative committee. The report was produced and endorsed by the eight Iraqi members of the Joint Commission. The details of the incident as described in the report portray a random and unprovoked shooting involving small and medium arms fire resulting in the deaths of vehicle passengers and bystanders. The report states that there was no evidence the convoy was fired upon, that a total of 17 Iraqis were killed, 27 wounded, 7 cars burned or damaged, and that 2 Iraqi Security Forces were among the casualties.

(C) 3. The report concludes that the conduct of the PSD violated Iraqi law and a number of CPA orders and that therefore the incident is a pre-meditated murder for which the Blackwater personnel must be held accountable. It also claims that the Ministry of Interior has information on seven other instances in which Blackwater personnel killed 10 Iraqis and wounded 15 others. It states that due to these previous violations, the company's license was not renewed after it expired in June 2006.

The report makes 5 recommendations:

- 1: That a court investigate the crime and take actions as stipulated by relevant CPA and Iraqi law immediately.
- 2: That the Council of Ministers requests the U.S. Government replace Blackwater within six months of the incident and replace it with a more disciplined company.
- 3: That Blackwater pay \$8 million for each death and \$4 million for each injury.
- 4: That the MOI address the issue of Blackwater operating illegally (without a license).
- 5: That new legislation governing security contractors drafted by the MOI and currently being considered by legislative bodies be adopted as quickly as possible (Ref A).

Embassy Approves Condolence Payments

(C) 4. On October 18 and October 20 the Embassy sent a team to the National Iraqi Assistance Center, a facility where MNF-I collects claims paperwork from Iraqis injured in MNF-I incidents, to collect applications from the Nisoor Square incident. The Iraqi National Police previously provided the Embassy with contact information of family members for 7 of the 17 Iraqis killed and for 15 of the 27 injured, all of whom were contacted. So far the Embassy has received

paperwork for 15 claims, including one claim form that was previously submitted to MNF-I.

(C) 5. On October 21 the Embassy Claims and Condolence Committee, chaired by the DCM, reviewed the claims submitted. The Embassy's claims and condolence program is modeled after MNC-I's, which typically provides up to \$2,500 per incident (death, injury or property damage) but which permits payments of up to \$10,000 per incident in extraordinary circumstances, if approved by the MNC-I Division Commanding General. Consistent with military practice and with the Ambassador's approval, the Committee agreed to make payments of \$10,000 to the family members of those killed, \$5,000 to those injured, and \$2,500 for each instance of property damage. The Committee agreed to arrange a forum for payment to the 15 claimants who have already filed paperwork, to expedite this payment, and to work with the GOI to contact the remaining potential claimants. The Embassy believes that Blackwater should also make its own payments in this incident, and requests the Department's assistance in conveying this message.

Preparing for the next Joint Commission Meeting

(C) 6. As agreed at the first Joint Commission Meeting on October 7 (Ref A), the Embassy is working with the Department to decide what information regarding the Nisoor Square and other PSD incidents can be shared with the Commission. The Embassy Legal Advisor is developing a work plan for the Commission, which, after consultation with our Iraq working level counterparts, we plan to introduce at the next meeting. The goal of this plan is to have each of the Joint Commission's meetings focus on one of the major themes of the report that the Commission will ultimately issue.

Investigation and Regional Security Office Update

(C) 7. The FBI continues its investigation with support from the Regional Security Officer (RSO) as needed. The RSO is implementing changes to its operating procedures. Diplomatic Security (DS) agents are now in charge of and accompanying all Chief of Mission (COM) motorcade movements in Baghdad outside of the IZ and to the extent possible in the rest of Iraq. An increased staffing pattern to sustain this larger workload has been approved by Post Management and has been submitted to the Department. DS is in the process of procuring video systems for all PSD vehicles and communications recording equipment for the Tactical Operations Center. The RSO is also taking technological steps to improve the mutual awareness of RSO and MNC-I elements in the field, and is procuring radios that will allow tactical communications between RSO air and ground assets and MNC-I assets.

(C) 8. The RSO is also forming an investigative response unit that will potentially include MNF-I and GOI representatives, to investigate all incidents involving COM security assets, including statistical analysis and metrics of PSD incidents and systematic collection and archiving of recorded video footage and radio communications. Additionally, the RSO is reviewing the viability of alternative non-lethal escalation of force procedures.

(C) 9. The RSO is working to improve linkages to the GOI for the general sharing of information and investigation of specific PSD incidents. The RSO will be participating regularly in the GOI/USG Crisis Action Cell, which is a weekly meeting between senior U.S. military officials, the Minister of Defense, and the National Security Advisor where PSD incidents are often raised. The RSO is scheduled to meet with the Chiefs of the Iraqi Police and the National Police in an effort to develop closer working-level relationships.

Media Coverage

(C) 10. The Nisoor Square incident and private security contractors in general have continued to receive negative coverage and have served as rallying points for Iraqi politicians and government officials (both those in power and in the opposition). Coverage of the establishment of the Joint Commission stemmed mostly from U.S. Government statements about it. Coverage of GOI statements included those of Al-Dabbagh on October 7 saying that the Iraqi investigation found Blackwater responsible for "deliberate murder". Other reports focused on the GOI's call for Blackwater to pay a total of \$136 million for the incident and comparing it to the Lockerbie bombing. An October 9

incident involving Unity Resources Group (URG), the PSD of a USAID contractor, in which two Iraqi women were killed, was reported as a "Blackwater-type massacre".

(C) 11. Newspaper and other coverage waned due to the Eid al-Fitr holiday, but Blackwater returned to the press once the news cycle resumed, with reports focusing on the Prime Minister's advisor Sami al-Askri who said "the Iraqi government has a clear position regarding the future of Blackwater in Iraq. The security firm should be expelled within six months." Editorials in all of Iraq's newspapers have lashed out at Blackwater, likening it to another militia contributing to the deterioration of Iraq's security. Numerous editorial cartoons have been published depicting Blackwater as bloodthirsty mercenaries. While the escalation of the Turkish border issue has been dominating the media, the Blackwater incident will likely remain a prominent issue for editorials and political cartoons as the unpopularity of private security firms makes it an easy target.

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